

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

HEARING OFFICER DIRECTIVE

DOCKET NO. 2019-281-S ORDER NO. 2020-57H

JUNE 24, 2020

Hearing Officer: David Butler

DOCKET DESCRIPTION:

Application of Palmetto Utilities, Incorporated for Adjustment (Increase) of Rates and Charges, Terms and Conditions, for Sewer Service Provided to Customers in Its Richland and Kershaw County Service Areas

MATTER UNDER CONSIDERATION:

Motion for Leave to File Supplemental Exhibit to Motion to Strike and for Sanctions and Reply

Ruling on Appearance of witnesses for Palmetto Utilities, Inc. at Virtual Merits Hearing

HEARING OFFICER'S ACTION:

Palmetto Utilities, Inc. (or "the Company") has filed a Motion for Leave to File a Supplemental Exhibit to its Motion to Strike and for Sanctions and Reply. The proposed Exhibit consists of a January 8, 2020 Service Agreement between ORS and GDS Associates, Inc, employer of ORS witness Charles E. Loy. Palmetto points to paragraph 6 and n.2 on pages 2-3 as directly contradicting the Office of Regulatory Staff's ("ORS's") argument to the Commission that the Company is obligated to designate as "confidential" matter produced to ORS under S.C. Code Ann. Section 58-4-55 (A) in order for it to receive the benefit of the protections provided under that subsection of the statute. The essence of the portions of the contract indicated by Palmetto Utilities, Inc. is that the consultant (in this case, Mr. Loy) may not reveal confidential information provided by the Company without the consent of the Office of Regulatory Staff. Footnote 2 to the contract discusses Section 58-4-55. The Company concludes that, with regard to the Loy testimony filed in this Docket, ORS consented to the disclosure of the Company material by Mr. Loy, knowing that doing so contravened the requirements of the statute, or, in the alternative, Mr. Loy made his disclosure in knowing violation of the terms of the GDS contract. The Office of Regulatory Staff, in its Reply, disputes the accuracy of the Company's conclusions, and notes, among other things, that the disputed information has been discussed openly in the Company's testimony. Also, ORS states that nothing in the GDS contract constitutes an acknowledgment or admission by ORS that ORS agrees with the interpretation of S.C. Code Ann. Section 58-4-55 advanced by the Company. ORS further discusses the sections of testimony of Mr. Loy sought to be struck by the Company.

In sum, after examination of the proposed Exhibit, I hereby grant the Motion for Leave to File the Supplemental Exhibit. I believe that the GDS contract can be examined in conjunction with the Motion to Strike and other submitted materials, and may be given whatever weight is appropriate by the Commission, along with the ORS response to the Motion. However, any ruling on admissibility of the document into evidence shall be reserved until a future time.

With regard to pre-hearing matters in this Docket, the Company had proposed that, if possible, the testimony of Company witnesses Andrena Powell Baker, Bryan Stone, and Joel E. Wood could be stipulated into the record without cross-examination, but that the witnesses could be available for questions from the Commissioners. In the same vein, the Company noted that if the Commission had no questions for these witnesses, that the testimonies could be verified without the witnesses being present and admitted into the record. The Company also proposed that verification could be employed for the testimony of Company witness Ralph Walker, which would otherwise be presented by William Crawford. However, on June 22, 2020, Lisa Levine, an Intervenor in this case, indicated that she wishes to cross-examine these witnesses, along with other named Company witnesses. For this reason, I hold that the witnesses indicated above must be produced at the virtual hearing in this case, along with the rest of the witnesses for Palmetto Utilities, Inc.

This ends the Hearing Officer Directive.